

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1663 be amended to read as follows:

- 1 Page 3, between lines 20 and 21, begin a new paragraph and
- 2 insert:
- 3 "SECTION 3. IC 16-18-2-14 IS AMENDED TO READ AS
- 4 FOLLOWS: Sec. 14. (a) "Ambulatory outpatient surgical center", for
- 5 purposes of IC 16-21, **IC 16-29-1.5**, and IC 16-38-2, means a public
- 6 or private institution that meets the following conditions:
- 7 (1) Is established, equipped, and operated primarily for the
- 8 purpose of performing surgical procedures and services.
- 9 (2) Is operated under the supervision of at least one (1)
- 10 licensed physician or under the supervision of the governing
- 11 board of the hospital if the center is affiliated with a hospital.
- 12 (3) Permits a surgical procedure to be performed only by a
- 13 physician, dentist, or podiatrist who meets the following
- 14 conditions:
- 15 (A) Is qualified by education and training to perform the
- 16 surgical procedure.
- 17 (B) Is legally authorized to perform the procedure.
- 18 (C) Is privileged to perform surgical procedures in at least
- 19 one (1) hospital within the county or an Indiana county
- 20 adjacent to the county in which the ambulatory outpatient
- 21 surgical center is located.
- 22 (D) Is admitted to the open staff of the ambulatory
- 23 outpatient surgical center.
- 24 (4) Requires that a licensed physician with specialized training

1 or experience in the administration of an anesthetic supervise  
2 the administration of the anesthetic to a patient and remain  
3 present in the facility during the surgical procedure, except  
4 when only a local infiltration anesthetic is administered.

5 (5) Provides at least one (1) operating room and, if anesthetics  
6 other than local infiltration anesthetics are administered, at  
7 least one (1) postanesthesia recovery room.

8 (6) Is equipped to perform diagnostic x-ray and laboratory  
9 examinations required in connection with any surgery  
10 performed.

11 (7) Does not provide accommodations for patient stays of  
12 longer than twenty-four (24) hours.

13 (8) Provides full-time services of registered and licensed nurses  
14 for the professional care of the patients in the postanesthesia  
15 recovery room.

16 (9) Has available the necessary equipment and trained  
17 personnel to handle foreseeable emergencies such as a  
18 defibrillator for cardiac arrest, a tracheotomy set for airway  
19 obstructions, and a blood bank or other blood supply.

20 (10) Maintains a written agreement with at least one (1)  
21 hospital for immediate acceptance of patients who develop  
22 complications or require postoperative confinement.

23 (11) Provides for the periodic review of the center and the  
24 center's operations by a committee of at least three (3) licensed  
25 physicians having no financial connections with the center.

26 (12) Maintains adequate medical records for each patient.

27 (13) Meets all additional minimum requirements as established  
28 by the state department for building and equipment  
29 requirements.

30 (14) Meets the rules and other requirements established by the  
31 state department for the health, safety, and welfare of the  
32 patients.

33 (b) The term does not include a birthing center.

34 SECTION 4. IC 16-18-2-67 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 67. "Comprehensive  
36 care bed", for purposes of:

37 **(1) IC 16-29-1.7, has the meaning set forth in IC 16-29-1.7-**  
38 **1; and**

39 **(2) IC 16-29-2, has the meaning set forth in IC 16-29-2-1.**

40 SECTION 5. IC 16-18-2-179 IS AMENDED TO READ AS  
41 FOLLOWS: Sec. 179. (a) "Hospital", except as provided in  
42 subsections (b) through (f), means a hospital that is licensed under  
43 IC 16-21-2.

44 (b) "Hospital", for purposes of IC 16-21, means an institution,  
45 a place, a building, or an agency that holds out to the general public  
46 that it is operated for hospital purposes and that it provides care,  
47 accommodations, facilities, and equipment, in connection with the  
48 services of a physician, to individuals who may need medical or  
49 surgical services. The term does not include the following:

50 (1) Freestanding health facilities.

51 (2) Hospitals or institutions specifically intended to diagnose,

care, and treat the following:

(A) Mentally ill individuals (as defined in IC 12-7-2-131).

(B) Individuals with developmental disabilities (as defined in IC 12-7-2-61).

(3) Offices of physicians where patients are not regularly kept as bed patients.

(4) Convalescent homes, boarding homes, or homes for the aged.

(c) "Hospital", for purposes of IC 16-22-8, has the meaning set forth in IC 16-22-8-5.

(d) "Hospital" or "tuberculosis hospital", for purposes of IC 16-24, means an institution or a facility for the treatment of individuals with tuberculosis.

**(e) "Hospital" for purposes of IC 16-29-1.5, means an institution, a place, a building, or an agency that holds out to the general public that it is operated for hospital purposes and that it provides care, accommodations, facilities, and equipment, in connection with the services of a physician, to individuals who may need medical or surgical services. The term does not include the following:**

**(1) A freestanding health facility.**

**(2) A hospital or institution specifically intended to diagnose, care, and treat individuals with developmental disabilities (as defines in IC 12-7-2-61).**

**(3) An office of physicians where patients are not regularly kept as bed patients.**

**(4) A convalescent home, boarding home, or home for the aged.**

~~(f)~~ **(f)** "Hospital", for purposes of IC 16-34, means a hospital (as defined in subsection (b)) that:

(1) is required to be licensed under IC 16-21-2; or

(2) is operated by an agency of the United States.

~~(g)~~ **(g)** "Hospital", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-6."

Page 8, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 7. IC 16-29-1.3 IS ADDED AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

**Chapter 1.3. Certificate of Need Committee**

**Sec. 1. The certificate of need committee is established.**

**Sec. 2. (a) The certificate of need committee consists of the following eleven (11) members:**

**(1) One (1) physician licensed under IC 25-22.5.**

**(2) One (1) individual who is not associated with a hospital, an ambulatory surgical center, or a health facility except as a consumer.**

**(3) One (1) individual representing the business sector.**

**(4) One (1) individual engaged in hospital administration.**

**(5) One (1) individual engaged in the administration of a**

1 rural hospital.

2 (6) One (1) individual engaged in the administration of a  
3 health facility.

4 (7) One (1) individual representing the insurance industry.

5 (8) One (1) individual representing the labor sector.

6 (9) One (1) individual representing minority health  
7 populations.

8 (10) The commissioner or the commissioner's designee.

9 (11) The director of the office of Medicaid policy and  
10 planning or the director's designee.

11 (b) The governor shall appoint the members set forth in  
12 subsection (a)(1) through (a)(9) for four (4) year terms. A  
13 member described in this subsection may be reappointed to the  
14 committee for one (1) additional four (4) year term.

15 (c) The commissioner or the commissioner's designee is the  
16 chairperson of the committee.

17 Sec. 3. The certificate of need committee shall do the  
18 following:

19 (1) Review an application for certificate of need applied for  
20 under the following statutes:

21 (A) IC 16-29-1.5.

22 (B) IC 16-29-1.7.

23 (2) Prepare the annual report required under:

24 (A) IC 16-29-1.5-7; and

25 (B) IC 16-29-1.7-10.

26 (3) Adopt criteria to be considered by the committee in  
27 reviewing an application for certificate of need under  
28 IC 16-29-1.5 and IC 16-29-1.7.

29 (4) Make recommendations to the state department  
30 concerning whether an application for certificate of need  
31 reviewed by the committee should be granted by the state  
32 department.

33 Sec. 4. The state department shall staff the certificate of need  
34 committee. The expenses of the committee shall be paid by the  
35 state department.

36 Sec. 5. (a) Each member of the certificate of need committee  
37 who is a state employee is entitled to the minimum salary per  
38 diem provided by IC 4-10-11-2.1(b). The member is also entitled  
39 to reimbursement for traveling expenses as provided under  
40 IC 4-13-1-4 and other expenses actually incurred in connection  
41 with the member's duties as provided in the state policies and  
42 procedures established by the Indiana department of  
43 administration and approved by the budget agency.

44 (b) Each member of the certificate of need committee who is  
45 a state employee is entitled to reimbursement for traveling  
46 expenses as provided under IC 4-13-1-4 and other expenses  
47 actually incurred in connection with the member's duties as  
48 provided in the state policies and procedures established by the  
49 Indiana department of administration and approved by the

1 budget agency.

2       **Sec. 6. The affirmative votes of a majority of the members**  
 3 **appointed to the certificate of need committee are required for the**  
 4 **committee to take action on any measure.**

5       SECTION 8. IC 16-29-1.5 IS ADDED TO THE INDIANA  
 6 CODE AS A NEW CHAPTER TO READ AS FOLLOWS  
 7 [EFFECTIVE JULY 1, 2007]:

8       **Chapter 1.5. Hospitals and Ambulatory Outpatient Surgical**  
 9 **Centers**

10       **Sec. 1. (a) The certificate of need committee established by**  
 11 **IC 16-29-1.3-1 shall review the following applications for a**  
 12 **certificate of need:**

13           **(1) Applications for a certificate of need to construct or add**  
 14 **a hospital required to be licensed under IC 16-21-2.**

15           **(2) Applications to construct or add an ambulatory**  
 16 **outpatient surgical center required to be licensed under IC**  
 17 **16-21-2.**

18       **(b) Hospital beds converted under IC 16-29-3 to:**

19           **(1) skilled care comprehensive long term care beds; or**

20           **(2) intermediate care comprehensive long term care beds;**  
 21 **are exempt from review under this chapter.**

22       **Sec. 2. (a) The certificate of need committee shall make a**  
 23 **finding on an application for a certificate of need based on**  
 24 **information prepared by the state department in accordance with**  
 25 **IC 16-30 and any other relevant information as to the need for an**  
 26 **entity described in section 1 of this chapter as requested in the**  
 27 **application.**

28       **(b) The certificate of need committee shall recommend and**  
 29 **the state department shall approve a certificate of need for a**  
 30 **hospital or an ambulatory outpatient surgical center only after**  
 31 **finding the following:**

32           **(1) The addition of a hospital or an outpatient surgical**  
 33 **center in the county:**

34                   **(A) is necessary;**

35                   **(B) will meet an unmet need in the proposed area to be**  
 36 **served; and**

37                   **(C) is the most efficient and effective method of meeting**  
 38 **that unmet need.**

39           **(2) The applicant for the certificate of need has illustrated**  
 40 **or documented the applicant's experience or capacity to**  
 41 **provide quality, effective, and efficient care. An applicant**  
 42 **must include a description of any past or current adverse**  
 43 **licensure action against any facility owned, operated, or**  
 44 **managed by the applicant.**

45       **Sec. 3. (a) An entity described in section 1 of this chapter may**  
 46 **not be constructed or added without the review and approval of**  
 47 **an application for a certificate of need required under this**  
 48 **chapter.**

49       **(b) The review and approval of an application for a certificate**

1 of need required under this chapter is a condition to the licensure  
2 of the entity.

3 **Sec. 4.** A certificate of need for a project to construct or add  
4 an entity described in section 1 of this chapter that receives final  
5 approval of the state department under this chapter becomes void  
6 twelve (12) months after the determination becomes final unless:

7 (1) construction plans for the project are approved by the  
8 state department and the office of the state fire marshal;

9 (2) the applicant has completed construction of the project's  
10 foundation in conformity with the approved plans as  
11 certified by an independent architect licensed under IC 25-4  
12 or an independent professional engineer licensed under IC  
13 25-31; and

14 (3) construction work on the project is continuous and in  
15 conformity with the approved plans.

16 **Sec. 5. (a)** Unless a certificate of need expires or is voided, the  
17 certificate of need once issued is the personal property of the  
18 owner and is transferable or alienable. However, the certificate  
19 of need may not be used outside the county with respect to which  
20 the certificate of need was issued.

21 (b) A person that is granted a certificate of need after the  
22 review and approval required under this chapter is the owner of  
23 the certificate of need until the person transfers or alienates the  
24 ownership interest in the certificate.

25 **Sec. 6. (a)** The state department shall adopt rules under  
26 IC 4-22-2 to implement this chapter and to establish a reasonable  
27 fee for the filing and review of an application under this chapter.  
28 A fee established under this section must be sufficient to cover the  
29 cost of administering the program. A rule adopted under this  
30 chapter may not be waived.

31 (b) Fees imposed in connection with the review of an  
32 application for a certificate of need under this chapter are  
33 payable to the state department for use in administration of the  
34 certificate of need program under this chapter.

35 (c) The state department shall consider the size of the entity  
36 proposed in an application and the projected revenues for the  
37 proposed entity in determining the entity's application fee.

38 **Sec. 7.** The certificate of need committee shall submit a  
39 report not later than July 1 of each year beginning July 1, 2008,  
40 to the health finance commission established by IC 2-5-23-3. The  
41 report must include the following:

42 (1) The number of applications for certificate of need under  
43 this chapter received during the year by the committee.

44 (2) The number of certificate of need applications under this  
45 chapter granted by the committee and the reason for  
46 granting each certificate of need.

47 (3) The number of times the committee met to review  
48 applications under this chapter for certificate of need.

49 (4) Any other information the committee considers relevant.

(5) Any information requested by the health finance commission.

**Sec. 8. A decision by the certificate of need committee or state department under this chapter is subject to review under IC 4-21.5.**

SECTION 9. IC 16-29-1.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

**Chapter 1.7. Health Facilities**

**Sec. 1. (a) As used in this chapter, "comprehensive care bed" means a bed in a comprehensive care facility that:**

- (1) is licensed or is to be licensed under IC 16-28-2; or**
- (2) functions as a bed licensed under IC 16-28-2.**

**(b) The term does not include a comprehensive care bed that will be used solely to provide specialized services described in IC 16-29-2. The state department shall review applications for a certificate of need for a comprehensive care bed used solely to provide specialized services under IC 16-29-2.**

**Sec. 2. (a) Except as provided in IC 16-29-2, the certificate of need committee established by IC 16-29-1.3-1 shall review the following applications for a certificate of need:**

- (1) Applications for a certificate of need for comprehensive care beds that are to be certified for participation in a state or federal reimbursement program, including programs under Title XVIII or Title XIX of the federal Social Security Act (49 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.).**
- (2) Applications for a certificate of need to construct or add comprehensive care beds or to convert beds to**

**comprehensive care beds.**

**(b) The following are exempt from review under this chapter:**

- (1) The conversion under IC 16-29-4 of existing health facility beds to ICF/MR beds.**
- (2) The construction under IC 16-29-4 of new ICF/MR facilities after June 30, 1987.**

**Sec. 3. Except as provided by IC 16-29-2, the certificate of need committee shall make a finding based on information prepared by the state department in accordance with IC 16-30 and any other relevant information as to the need for an entity described in section 2 of this chapter as requested in the application for a certificate of need. The committee shall recommend and the state department shall approve a certificate of need for additional comprehensive care beds or the certification of comprehensive care beds only after finding the following:**

- (1) The certification or addition of comprehensive care beds in the county:**
  - (A) is necessary;**
  - (B) will meet an unmet need in the proposed area to be served; and**

1 (C) is the most efficient and effective method of meeting  
2 that unmet need.

3 (2) The applicant for a certificate of need has illustrated or  
4 documented the applicant's experience or capacity to  
5 provide quality, effective, and efficient care that includes a  
6 description of any past or current adverse licensure action  
7 against any facility owned, operated, or managed by the  
8 applicant.

9 Sec. 4. The certificate of need committee shall presume that  
10 additional comprehensive care beds are not needed in the county  
11 of application if:

12 (1) the existing utilization rate for all certified  
13 comprehensive care beds is less than ninety percent (90%);  
14 or

15 (2) the addition of the certified beds proposed in the  
16 application for a certificate of need will reduce the existing  
17 utilization rate for all certified comprehensive care beds  
18 below ninety percent (90%).

19 Sec. 5. (a) Except as provided in IC 16-29-2, IC 16-29-3, and  
20 IC 16-29-4:

21 (1) a comprehensive care bed may not be constructed or  
22 added; and

23 (2) a bed may not be converted to a comprehensive care  
24 bed;

25 without the review and approval of a certificate of need required  
26 under this chapter.

27 (b) Comprehensive care beds that are not certified for  
28 participation in a state or federal reimbursement program,  
29 including programs under Title XVIII or Title XIX of the federal  
30 Social Security Act (42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et  
31 seq.) may not be certified without the review and approval  
32 required under this chapter.

33 (c) The review and approval of a certificate of need required  
34 in this chapter is a condition to the licensure of the facility.

35 Sec. 6. A certificate of need for a project to construct, add,  
36 or convert beds that receives final approval of the state  
37 department under this chapter or IC 16-29-1 (before its repeal)  
38 becomes void twelve (12) months after the determination becomes  
39 final unless:

40 (1) construction plans for the project are approved by the  
41 state department and the office of the state fire marshal;

42 (2) the applicant has completed construction of the project's  
43 foundation in conformity with the approved plans as  
44 certified by an independent architect licensed under IC 25-4  
45 or an independent professional engineer licensed under IC  
46 25-31; and

47 (3) construction work on the project is continuous and in  
48 conformity with the approved plans.

49 Sec. 7. (a) Unless a certificate of need expires or is voided, the



1 certificate of need once issued is the personal property of the  
 2 owner and is transferable or alienable. However, the certificate  
 3 of need may not be used outside the county with respect to which  
 4 the certificate of need was issued.

5 (b) A person that is granted a certificate of need after the  
 6 review and approval required under this chapter is the owner of  
 7 the certificate of need until the person transfers or alienates the  
 8 ownership interest in the certificate.

9 Sec. 8. (a) The state department shall adopt rules under  
 10 IC 4-22-2 to implement this chapter and to establish a reasonable  
 11 fee for the filing and review of an application under this chapter.  
 12 A fee established under this section must be sufficient to cover the  
 13 cost of administering the program. A rule adopted under this  
 14 chapter may not be waived.

15 (b) Fees imposed in connection with the review of an  
 16 application for a certificate of need under this chapter are  
 17 payable to the state department for use in administration of the  
 18 certificate of need program under this chapter.

19 (c) The state department shall decide whether to consider the  
 20 size of the entity proposed within an application and the projected  
 21 revenues for the proposed entity in determining the entity's  
 22 application fee.

23 Sec. 9. The certificate of need committee shall consider the  
 24 following when determining whether to recommend the issuance  
 25 of a certificate of need:

26 (1) Information, if available, regarding whether the  
 27 applicant has provided quality care services.

28 (2) The costs the applicant has incurred to provide services.

29 Sec. 10. The certificate of need committee shall submit a  
 30 report not later than July 1 of each year beginning July 1, 2008,  
 31 to the health finance commission established by IC 2-5-23-3. The  
 32 report must include the following:

33 (1) The number of applications for certificate of need under  
 34 this chapter received during the year by the committee.

35 (2) The number of certificate of need applications under this  
 36 chapter granted by the committee and the reason for  
 37 granting each certificate of need.

38 (3) The number of times the committee met to review  
 39 applications under this chapter for certificate of need.

40 (4) Any other information the committee considers relevant.

41 (5) Any information requested by the health finance  
 42 commission.

43 Sec. 11. A decision by the certificate of need committee or  
 44 state department under this chapter is subject to review under IC  
 45 4-21.5.

46 SECTION 10. IC 16-29-3-1, AS AMENDED BY  
 47 P.L.96-2006, SECTION 1, IS AMENDED TO READ AS  
 48 FOLLOWS: Sec. 1. Notwithstanding IC 16-29-1.7, ~~A hospital~~ a  
 49 hospital licensed under IC 16-21-2 may convert, **without having**

**to obtain a certificate of need under IC 16-29-1.5:**

(1) not more than thirty (30) acute care beds to skilled care comprehensive long term care beds; and

(2) not more than an additional twenty (20) acute care beds to either intermediate care comprehensive long term care beds or skilled care comprehensive long term care beds;

that are to be certified for participation in a state or federal reimbursement program, including a program under Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) or the state Medicaid program, if those beds will function essentially as beds licensed under IC 16-28.

SECTION 11. IC 16-29-4-1 IS AMENDED TO READ AS FOLLOWS: (a) Sec. 1. This chapter applies to the following:

(1) The conversion of existing health facility beds to ICF/MR beds.

(2) The construction of new ICF/MR facilities after June 30, 1987.

**(b) IC 16-29-1.7 does not apply to the:**

**(1) conversion of existing health facility beds to ICF/MR beds;**

**(2) construction of new ICF/MR facilities after June 30, 1987;**

**under this chapter.**

SECTION 12. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 16-29-1.7, as added by this act, a health facility (as defined in IC 16-18-2-167) is not required to obtain a certificate of need to construct comprehensive care beds (as defined in IC 16-29-1.7-1, as added by this act) if:

(1) construction plans for the project are approved by the state department of health and the office of the state fire marshal not later than May 15, 2007;

(2) the applicant has completed construction of the project's foundation not later than July 1, 2007, in conformity with the approved plans as certified by an independent architect licensed under IC 25-4 or an independent professional engineer licensed under IC 25-31; and

(3) construction work on the project is continuous and in conformity with the approved plans.

**(b) This SECTION expires July 1, 2008.**

SECTION 13. [EFFECTIVE JULY 1, 2007] (a) Notwithstanding IC 16-29-1.3-2, as added by this act, the initial members of the certificate of need committee shall be appointed as follows:

(1) The members appointed under IC 16-29-1.3-2(a)(1) and IC 16-29-1.3-2(a)(2), both as added by this act, shall each be appointed to a one (1) year term.

(2) The members appointed under IC 16-29-1.3-2(a)(3) and IC 16-29-1.3-2(a)(4), both as added by this act, shall each be appointed to a two (2) year term.

- 1       **(3) The members appointed under IC 16-29-1.3-2(a)(5)**  
2       **through IC 16-29-1.3-2(a)(7), all as added by this act, shall**  
3       **each be appointed to a three (3) year term.**  
4       **(4) The members appointed under IC 16-29-1.3-2(a)(8) and**  
5       **IC 16-29-1.3-2(a)(9), both as added by this act, shall each**  
6       **be appointed to a four (4) year term.**  
7       **(b) This SECTION expires December 31, 2011.**  
8       **SECTION 14. An emergency is declared for this act."**  
9       Renumber all SECTIONS consecutively.  
      (Reference is to HB 1663 as printed February 14, 2007.)

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Representative FOLEY